



General Assembly

Substitute Bill No. 5521

February Session, 2010

* ____HB05521JUD__032610__ *

AN ACT CONCERNING CHILD WELFARE AND THE JUVENILE JUSTICE SYSTEM AND ERASURE OF JUVENILE RECORDS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 46b-133 of the 2010 supplement to the general
2 statutes is repealed and the following is substituted in lieu thereof
3 (*Effective October 1, 2010*):

4 (a) Nothing in this part shall be construed as preventing the arrest of
5 a child, with or without a warrant, as may be provided by law, or as
6 preventing the issuance of warrants by judges in the manner provided
7 by section 54-2a, except that no child shall be taken into custody on
8 such process except on apprehension in the act, or on speedy
9 information, or in other cases when the use of such process appears
10 imperative. Whenever a child is arrested and charged with a crime,
11 such child may be required to submit to the taking of his photograph,
12 physical description and fingerprints. Notwithstanding the provisions
13 of section 46b-124, the name, photograph and custody status of any
14 child arrested for the commission of a capital felony or class A felony
15 may be disclosed to the public.

16 (b) Whenever a child is brought before a judge of the Superior
17 Court, such judge shall immediately have the case proceeded upon as
18 a juvenile matter. Such judge may admit the child to bail or release the
19 child in the custody of the child's parent or parents, the child's

20 guardian or some other suitable person to appear before the Superior
21 Court when ordered. If detention becomes necessary, such detention
22 shall be in the manner prescribed by this chapter, provided the child
23 shall be placed in the least restrictive environment possible in a
24 manner consistent with public safety.

25 (c) Upon the arrest of any child by an officer, such officer may (1)
26 [may] release the child to the custody of the child's parent or parents,
27 guardian or some other suitable person or agency, (2) at the discretion
28 of the officer, release the child to the child's own custody, or (3)
29 [immediately] seek a court order for the authority to turn the child
30 over to a juvenile detention center. When a child is arrested for the
31 commission of a delinquent act and the child is not placed in detention
32 or referred to a diversionary program, an officer shall serve a written
33 complaint and summons on the child and the child's parent, guardian
34 or some other suitable person or agency. If such child is released to the
35 child's own custody, the officer shall make reasonable efforts to notify,
36 and to provide a copy of a written complaint and summons to, the
37 parent or guardian or some other suitable person or agency prior to
38 the court date on the summons. If any person so summoned wilfully
39 fails to appear in court at the time and place so specified, the court may
40 issue a warrant for the child's arrest or a *capias* to assure the
41 appearance in court of such parent, guardian or other person. If a child
42 wilfully fails to appear in response to such a summons, the court may
43 order such child taken into custody and such child may be charged
44 with the delinquent act of wilful failure to appear under section 46b-
45 120. The court may punish for contempt, as provided in section 46b-
46 121, any parent, guardian or other person so summoned who wilfully
47 fails to appear in court at the time and place so specified.

48 (d) The court or detention supervisor may turn such child over to a
49 youth service program created for such purpose, if such course is
50 practicable, or such child may be detained pending a hearing which
51 shall be held on the business day next following the child's arrest. No
52 child shall be detained after such hearing or held in detention pursuant
53 to a court order unless it appears from the available facts that there is

54 probable cause to believe that the child has committed the acts alleged,
55 there is no less restrictive alternative available and [that] there is (1) a
56 strong probability that the child will run away prior to the court
57 hearing or disposition, (2) a strong probability that the child will
58 commit or attempt to commit other offenses injurious to the child or to
59 the community prior to the court disposition, (3) probable cause to
60 believe that the child's continued residence in the child's home
61 pending disposition poses a risk to the child or the community because
62 of the serious and dangerous nature of the act or acts the child is
63 alleged to have committed, (4) a need to hold the child for another
64 jurisdiction, (5) a need to hold the child to assure the child's
65 appearance before the court, in view of the child's previous failure to
66 respond to the court process, or (6) the child has violated one or more
67 of the conditions of a suspended detention order. Such probable cause
68 may be shown by sworn affidavit in lieu of testimony. No child shall
69 be released from detention who is alleged to have committed a serious
70 juvenile offense except by order of a judge of the Superior Court. Any
71 child confined in a community correctional center or lockup shall be
72 held in an area separate and apart from any adult detainee, except in
73 the case of a nursing infant, and no child shall at any time be held in
74 solitary confinement. When a female child is held in custody, she shall,
75 as far as possible, be in the charge of a woman attendant.

76 (e) The police officer who brings a child into detention shall have
77 first notified, or made a reasonable effort to notify, the parents or
78 guardian of the child in question of the intended action and shall file at
79 the detention center a signed statement setting forth the alleged
80 delinquent conduct of the child. Unless the arrest was for a serious
81 juvenile offense or unless an order not to release is noted on the take
82 into custody order, arrest warrant or order to detain, the child may be
83 released by a detention supervisor to the custody of the child's parent
84 or parents, guardian or some other suitable person or agency.

85 (f) In conjunction with any order of release from detention, the court
86 may, when it has reason to believe a child is alcohol-dependent or
87 drug-dependent as defined in section 46b-120, and where necessary,

88 reasonable and appropriate, order the child to participate in a program
89 of periodic alcohol or drug testing and treatment as a condition of such
90 release. The results of any such alcohol or drug test shall be admissible
91 only for the purposes of enforcing the conditions of release from
92 detention.

93 (g) [Whenever the population of a juvenile detention center equals
94 or exceeds the maximum capacity for such center, as determined by
95 the Judicial Branch, the] The detention supervisor of a juvenile
96 detention center in charge of intake shall admit only a child who: (1) Is
97 [charged with the commission of a serious juvenile offense, (2) is] the
98 subject of an order to detain or an outstanding court order to take such
99 child into custody, [(3)] (2) is ordered by a court to be held in
100 detention, or [(4)] (3) is being transferred to such center to await a
101 court appearance.

102 Sec. 2. Section 46b-146 of the 2010 supplement to the general statutes
103 is repealed and the following is substituted in lieu thereof (*Effective*
104 *October 1, 2010*):

105 (a) Whenever any child has been convicted as delinquent [, has been
106 adjudicated a member of a family with service needs] for the
107 commission of a serious juvenile offense or has signed a statement of
108 responsibility admitting to having committed a delinquent act that
109 constitutes a serious juvenile offense, and has subsequently been
110 discharged from the supervision of the Superior Court or from the
111 custody of the Department of Children and Families or from the care
112 of any other institution or agency to whom the child has been
113 committed by the court, such child, or the child's parent or guardian,
114 may file a petition with the Superior Court. If such court finds (1) that
115 at least [two years or, in the case of a child convicted as delinquent for
116 the commission of a serious juvenile offense,] four years have elapsed
117 from the date of such discharge, (2) that no subsequent juvenile
118 proceeding or adult criminal proceeding is pending against such child,
119 (3) that such child has not been convicted of a delinquent act that
120 would constitute a felony or misdemeanor if committed by an adult

121 during such [two-year or] four-year period, (4) that such child has not
122 been convicted as an adult of a felony or misdemeanor during such
123 [two-year or] four-year period, and (5) that such child has reached
124 seventeen years of age, the court shall order all police and court
125 records pertaining to such child to be erased. Upon the entry of such
126 an erasure order, all references, including arrest, complaint, referrals,
127 petitions, reports and orders, shall be removed from all agency, official
128 and institutional files, and a finding of delinquency [or that the child
129 was a member of a family with service needs] shall be deemed never to
130 have occurred. The persons in charge of such records shall not disclose
131 to any person information pertaining to the record so erased, except
132 that the fact of such erasure may be substantiated where, in the
133 opinion of the court, it is in the best interests of such child to do so. No
134 child who has been the subject of such an erasure order shall be
135 deemed to have been arrested ab initio, within the meaning of the
136 general statutes, with respect to proceedings so erased. Copies of the
137 erasure order shall be sent to all persons, agencies, officials or
138 institutions known to have information pertaining to the delinquency
139 [or family with service needs] proceedings affecting such child.

140 (b) Whenever any child has been convicted as delinquent, has been
141 adjudicated a member of a family with service needs or has signed a
142 statement of responsibility admitting to having committed a
143 delinquent act, and has subsequently been discharged from the
144 supervision of the Superior Court or from the custody of the
145 Department of Children and Families or from the care of any other
146 institution or agency to whom the child has been committed by the
147 court, and (1) at least two years have elapsed from the date of such
148 discharge, (2) no subsequent juvenile proceeding or adult criminal
149 proceeding is pending against such child, (3) such child has not been
150 convicted of a delinquent act that would constitute a felony or
151 misdemeanor if committed by an adult during such two-year period,
152 (4) such child has not been convicted as an adult of a felony or
153 misdemeanor during such two-year period, (5) such child has not been
154 convicted of a delinquent act for the commission of a serious juvenile

155 offense, and (6) such child has reached seventeen years of age, the
156 clerk of the superior court for juvenile matters shall, on the second day
157 of January each year or on a date designated by the court, erase the
158 files, papers and other records, including electronic records, pertaining
159 to any proceeding concerning such child. Upon such erasure, all
160 references, including arrest, complaint, referrals, petitions, reports and
161 orders, shall be removed from all agency, official and institutional files,
162 and a finding of delinquency or that the child was a member of a
163 family with service needs shall be deemed never to have occurred. The
164 persons in charge of such records shall not disclose to any person
165 information pertaining to the record so erased, except that the fact of
166 such erasure may be substantiated where, in the opinion of the court, it
167 is in the best interests of such child to do so. No child who has been the
168 subject of such an erasure shall be deemed to have been arrested ab
169 initio, within the meaning of the general statutes, with respect to
170 proceedings so erased. Copies of the erasure shall be sent to all
171 persons, agencies, officials or institutions known to have information
172 pertaining to the delinquency or family with service needs proceedings
173 affecting such child.

174 (c) Whenever a child is dismissed as not delinquent or as not being a
175 member of a family with service needs, all police and court records
176 pertaining to such charge shall be ordered erased immediately,
177 without the filing of a petition.

178 (d) Nothing in this section shall prohibit the court from granting a
179 petition to erase a child's records on a showing of good cause, after a
180 hearing, before the time when such records could be erased or would
181 be erased pursuant to this section.

182 Sec. 3. Section 46b-146 of the 2010 supplement to the general
183 statutes, as amended by section 88 of public act 09-7, is repealed and
184 the following is substituted in lieu thereof (*Effective July 1, 2012*):

185 (a) Whenever any child has been convicted as delinquent [, has been
186 adjudicated a member of a family with service needs] for the

187 commission of a serious juvenile offense or has signed a statement of
188 responsibility admitting to having committed a delinquent act that
189 constitutes a serious juvenile offense, and has subsequently been
190 discharged from the supervision of the Superior Court or from the
191 custody of the Department of Children and Families or from the care
192 of any other institution or agency to whom the child has been
193 committed by the court, such child, or the child's parent or guardian,
194 may file a petition with the Superior Court. If such court finds (1) that
195 at least [two years or, in the case of a child convicted as delinquent for
196 the commission of a serious juvenile offense,] four years have elapsed
197 from the date of such discharge, (2) that no subsequent juvenile
198 proceeding or adult criminal proceeding is pending against such child,
199 (3) that such child has not been convicted of a delinquent act that
200 would constitute a felony or misdemeanor if committed by an adult
201 during such [two-year or] four-year period, (4) that such child has not
202 been convicted as an adult of a felony or misdemeanor during such
203 [two-year or] four-year period, and (5) that such child has reached
204 eighteen years of age, the court shall order all police and court records
205 pertaining to such child to be erased. Upon the entry of such an
206 erasure order, all references, including arrest, complaint, referrals,
207 petitions, reports and orders, shall be removed from all agency, official
208 and institutional files, and a finding of delinquency [or that the child
209 was a member of a family with service needs] shall be deemed never to
210 have occurred. The persons in charge of such records shall not disclose
211 to any person information pertaining to the record so erased, except
212 that the fact of such erasure may be substantiated where, in the
213 opinion of the court, it is in the best interests of such child to do so. No
214 child who has been the subject of such an erasure order shall be
215 deemed to have been arrested ab initio, within the meaning of the
216 general statutes, with respect to proceedings so erased. Copies of the
217 erasure order shall be sent to all persons, agencies, officials or
218 institutions known to have information pertaining to the delinquency
219 [or family with service needs] proceedings affecting such child.

220 (b) Whenever any child has been convicted as delinquent, has been

221 adjudicated a member of a family with service needs or has signed a
222 statement of responsibility admitting to having committed a
223 delinquent act, and has subsequently been discharged from the
224 supervision of the Superior Court or from the custody of the
225 Department of Children and Families or from the care of any other
226 institution or agency to whom the child has been committed by the
227 court, and (1) at least two years have elapsed from the date of such
228 discharge, (2) no subsequent juvenile proceeding or adult criminal
229 proceeding is pending against such child, (3) such child has not been
230 convicted of a delinquent act that would constitute a felony or
231 misdemeanor if committed by an adult during such two-year period,
232 (4) such child has not been convicted as an adult of a felony or
233 misdemeanor during such two-year period, (5) such child has not been
234 convicted of a delinquent act for the commission of a serious juvenile
235 offense, and (6) such child has reached eighteen years of age, the clerk
236 of the superior court for juvenile matters shall, on the second day of
237 January each year or on a date designated by the court, erase the files,
238 papers and other records, including electronic records, pertaining to
239 any proceeding concerning such child. Upon such erasure, all
240 references, including arrest, complaint, referrals, petitions, reports and
241 orders, shall be removed from all agency, official and institutional files,
242 and a finding of delinquency or that the child was a member of a
243 family with service needs shall be deemed never to have occurred. The
244 persons in charge of such records shall not disclose to any person
245 information pertaining to the record so erased, except that the fact of
246 such erasure may be substantiated where, in the opinion of the court, it
247 is in the best interests of such child to do so. No child who has been the
248 subject of such an erasure shall be deemed to have been arrested ab
249 initio, within the meaning of the general statutes, with respect to
250 proceedings so erased. Copies of the erasure shall be sent to all
251 persons, agencies, officials or institutions known to have information
252 pertaining to the delinquency or family with service needs proceedings
253 affecting such child.

254 (c) Whenever a child is dismissed as not delinquent or as not being a

255 member of a family with service needs, all police and court records
256 pertaining to such charge shall be ordered erased immediately,
257 without the filing of a petition.

258 (d) Nothing in this section shall prohibit the court from granting a
259 petition to erase a child's records on a showing of good cause, after a
260 hearing, before the time when such records could be erased or would
261 be erased pursuant to this section.

262 Sec. 4. (NEW) (*Effective from passage*) Not later than September 30,
263 2010, and annually thereafter, the Commissioner of Children and
264 Families, the Commissioner of Public Safety, the Chief State's Attorney,
265 the Chief Public Defender, the Chief Court Administrator and the
266 Police Officer Standards and Training Council shall submit a report, on
267 behalf of the respective department, division, office or council, to the
268 Secretary of the Office of Policy and Management on the plans
269 established by the department, division, office or council to address
270 disproportionate minority contact in the juvenile justice system and
271 the steps taken to implement those plans during the previous fiscal
272 year. Any reports submitted by the Commissioner of Children and
273 Families and the Chief Court Administrator, or on behalf of any other
274 such department, division, office or council that has responsibility for
275 providing child welfare services, including services in abuse and
276 neglect cases, shall (1) indicate efforts undertaken in the prior fiscal
277 year to address disproportionate minority contact in the child welfare
278 system, and (2) include an evaluation of the relationship between the
279 child welfare system and disproportionate minority contact in the
280 juvenile justice system. The Secretary of the Office of Policy and
281 Management shall compile the submissions and shall submit a report
282 on such submissions, in accordance with section 11-4a of the general
283 statutes, to the Governor and the General Assembly not later than
284 December thirty-first annually. For the purposes of this section,
285 "disproportionate minority contact" means that a disproportionate
286 number of juvenile members of minority groups come into contact
287 with the juvenile justice system.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2010</i>	46b-133
Sec. 2	<i>October 1, 2010</i>	46b-146
Sec. 3	<i>July 1, 2012</i>	46b-146
Sec. 4	<i>from passage</i>	New section

Statement of Legislative Commissioners:

In sections 2(b) and 3(b), "destroy" was changed to "erase" for consistency with the general statutes; and in section 4, "agency" was deleted to avoid repetition and "plan" was changed to "reports" for accuracy.

JUD *Joint Favorable Subst.-LCO*